Supreme Court, U.S.
FILED
SEP 9 1980
MICHAEL RODAK, JR., CLERK

No. 80-51

In The

SUPREME COURT OF THE UNITED STATES

1979 Term

CHARLES A. BRIDGES,

Appellant,

v.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MENTAL HEALTH and
MENTAL RETARDATION,

Appellee.

ON APPEAL FROM THE SUPREME COURT
OF VIRGINIA

BRIEF OPPOSING MOTION TO DISMISS

Kaletah N. Carroll
4015 Chain Bridge Road
Post Office Box 434
Fairfax, Virginia 22030

Attorney for
Appellant

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Comes now the Appellant and in opposition to the Motion to Dismiss filed by the Appellee respectfully sets forth the following points and authorities:

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1. The Appellee, in its Statement of Facts, has erroneously assumed that the charges the Commonwealth seeks to recover against the Appellant were in fact charges for the care, treatment and maintenance furnished the Appellant's wife. By both the admission of the Commonwealth in trial (Appendix page 37a, 37b) and the terms of the statutes in question, (Appendix page 11a, 11b, 15a) the charges are not for services rendered to Mrs. Bridges. Mr. Bridges is being charged for those who cannot pay as well as being taxed for the same thing, and chis is certainly discrimination and unequal protection of the law, when his duty of support is no different from all other spouses of persons involuntarily incarcerated in Virginia.

2. As to number two of the Appellee's Statement of Facts, the Appellant must point out that he only received a

hearing four years after his liability to pay had been determined by some clerk of the Department of Mental Health and Mental Retardation by a process the Commonwealth admitted was without any standards because, in its words, the statute did not require standards. He had already been selected to pay by the time he went to Court, almost four years later.

3. The financial data sheet referred to by the Appellee, in its Statement of Facts of page 4 shows the gross abuse exercised by the Appellee because the statement is so blatently erroneous. It contains no expenses for food, clothing, transportation and other necessary expenses that the Appellee would have been bound to consider if the Appellant could have had a hearing and Counsel to represent

him prior to his being picked and chosen to pay. These sheets are no different than the correspondence referred to in McDonald v. McLucas, 381 F. Supp. 831.

4. The Appellee has assumed incorrectly in its Argument on page 5 of its Motion to Dismiss that the Appellant means by "others involuntarily incarcerated" only those in jails and prisons. The Appellee ignores those juveniles in detention homes which are not jails, but are institutions in which children are incarcerated and for which parents in Virginia are not required to pay any maintenance, support, nor care for such child on any basis, although the duty to support one's child continues to exist while such child is in detention or foster homes.

5. The Appellee states on page 6 of its Motion to Dismiss that this case does not involve a "suspect classifica-

tion" or touch on fundamental rights, and consequently there is no need for strict scrutiny. The Appellee misses the point entirely. The families of the mentally ill are being placed in a class by the Commonwealth when there is no basis for such a classification by the law. To classify when there is no basis for classification is certainly a violation of a fundamental right, the right to equal treatment of all persons in similar circumstances. The duty of families of those incarcerated in a mental institution is no different from those incarcerated in any other state institution. To argue that because a person is mentally ill, the family is different, does indeed create a "suspect classification" in fact if not in law. Historically, the families of the mentally ill have suffered devistating discrimi-

nation by society because of society's bias and prejudice. The law should not compound such a wrong.

6. As to the Appellee's statement on page 7 of its Motion to Dismiss that " . . . the basic fact of confinement is predicated on the need to punish", modern penalogists would certainly voice grave and justified alarm. It is not the law of today. Williams v. People of the State of New York, 337 U.S. 241; Pell v. Procunier, 417 U.S. 817; Bowring v. Godwin (Virginia), 551 Fed. 2d. 44. The primary object of incarceration is rehabilitation so that such person can take his place in society again. This benefits the incarcerated person's family as well as society. Is not punishment part and parcel of rehabilitation? If the reason for imprisonment is not rehabilitation solely, either

through punishment, training or treatment, than our system of law is all wrong. Society would not need jails in that case, only gallowses. If the Appellee is correct in its argument, society should save its money and effort because such a position is a statement that the criminal is never going to change. However, the Appellee is wrong. Criminals are rehabilitated, and punishment is a part of rehabilitation so that the criminal will know the pain and frustration that will result from future violations and refrain from committing a crime.

7. Further, the Appellee says on page 8 of its Motion to Dismiss that to "impose such monetary burdens [the duty of support] upon a man's [criminal's] innocent relatives as a consequence of his criminal conviction would raise serious questions of equity and due

process." Are an insane man's relatives any more guilty of his status than a criminal's relatives? A spouse of a mentally ill person is no more responsible for the necessity of incarceration of the mentally ill than the criminal's spouse is responsible for the criminal's act. The duty of the spouse for support is, however, the same in both cases. The Appellee's argument that to require an innocent spouse to pay for the incarcerated person's "food, clothing or salaries of his guards" would raise serious questions of equity and due process is certainly acknowledgment that the Appellant's position is well founded.

8. On page 15 of Appellee's Motion to Dismiss, the Appellee says that the Appellant had failed to show that he was treated less favorable than others

of similar financial "condition and estate". Certainly it is within the judicial knowledge of all courts, as it is in the general public knowledge, that there are spouses, children and other relatives of extremely wealthy people incarcerated in all jails, detention homes, and foster care facilities, including Virginia, and the Appellee has admitted it makes no charge for the care, maintenance and support of such persons.

9. The court hearing that the Appellant was given and which the Appellee points to in arguing that the Appellant was not denied due process of law (pages 9, 10, 11, 12, 13, and 14 of the Motion to Dismiss), is limited by the statutes in question to the amount the spouse of the mentally ill person is to pay for the per capita costs of the operation of

the mental institution. The question of whether the spouse can pay, however, is determined by this administrative process that is totally devoid of any constitutional safeguards. By the time of the court hearing, the crucial decision had already determined the fact of the liability. In this case, the court hearing took place almost four years after the administrative decision had been made. The statutes in question give the Appellant no right to a court hearing or appeal to a court concerning the initial decision made by the administrative agency at the time the decision is made. This is indeed crucial because only $500.00 of a spouse's or family member's entire estate is exempt from the obligation of the debt. The circumstances of an obligee can change in four years to a point where he is

financially devistated.

CONCLUSION

Protection of society from all those involuntarily incarcerated, as well as rehabilitation of those individuals, is a function of the state. The state should provide the costs of this function, otherwise, spouses and relatives of those dangerously mentally ill will be reluctant to ever report such mental illness or take steps to provide treatment for such persons. The relatives first see the symptoms of mental illness, and their cooperation in obtaining early treatment for them to protect the public and themselves is necessary, or society is indeed in danger.

Respectfully submitted,

Charles A. Bridges

CHARLES A. BRIDGES, By Counsel

KALETAH N. CARROLL
Counsel for Appellant
4015 Chain Bridge Road
Post Office Box 434
Fairfax, Virginia 22030

CERTIFICATE OF SERVICE

COMMONWEALTH OF VIRGINIA

COUNTY OF FAIRFAX, to-wit:

Personally appeared before me, Susan Lynn Collier, a Notary Public in and for the County aforesaid, in my said County, on this 8th day of September, 1980, KALETAH N. CARROLL, who first being duly sworn states as follows:

1. That the Appellant received three copies of the Appellee's MOTION TO DISMISS and MEMORANDUM IN SUPPORT OF MOTION TO DISMISS on August 29, 1980, and

2. That she mailed three copies of the foregoing BRIEF OPPOSING MOTION TO

DISMISS on September 8, 1980, postage prepaid and properly addressed, to Gary W. Lonergan, 2 Skyline Place, Suite 103, 5302 Leesburg Pike, Baileys Crossroads, Virginia, 22041, and three copies to Marshall Coleman, Attorney General of Virginia, James E. Moore and William H. Hurd, Assistant Attorneys General of Virginia, and that Mr. Lonergan, Mr. Coleman, Mr. Moore and Mr. Hurd are the attorneys for the Appellee.

Kaletah N. Carroll
KALETAH N. CARROLL

SUBSCRIBED and SWORN to before me this 8th day of September, 1980.

Susan Lynn Collier
Notary Public, as aforesaid

My Commission Expires: April 23, 1984.